

COUNTY OF LOUDOUN
DEPARTMENT OF BUILDING AND DEVELOPMENT
MEMORANDUM

DATE: February 14, 2008
TO: Loudoun County Planning Commission
FROM: Michelle M. Lohr, Project Manager
SUBJECT: **Farm Markets in Various Zoning Districts – ZOAM 2007-0004**
February 21, 2008 Committee of the Whole

EXECUTIVE SUMMARY

The Planning Commission initiated an intent to amend the zoning ordinance at its July 9, 2007 meeting to add Farm Markets without agricultural production on-site, which sell agricultural, horticultural, and aquacultural goods produced in Loudoun County, as a permitted use pursuant to Section 5-603 in the following zoning districts: AR-1 (Agricultural Rural-1), AR-2 (Agricultural Rural – 2), JLMA-2 (Joint Land Management Area – 2), R-1 (Single Family Residential), R-2 (Single Family Residential), R-3 (Single Family Residential)), R-4 (Single Family Residential), R-8 (Single Family Residential), R-16 (Townhouse/Multifamily Residential), R-24 (Multifamily Residential), PD-CC (Planned Development – Commercial Center), PD-OP (Planned Development – Office Park), PD-RDP (Planned Development – Research and Development Park), PD-IP (Planned Development – Industrial Park), and PD-GI (Planned Development – General Industry). The proposal also seeks to amend the Additional Regulations for Specific Uses related to Farm Markets and to amend the definition of Farm Market.

A public hearing was held on the matter on November 19, 2007 with the Planning Commission voting that evening (5-1-1-2) to recommend approval of the amendment. On January 8, 2008, the Board of Supervisors held a public hearing at which three persons spoke regarding the issue. The Board of Supervisors voted (9-0) to return ZOAM 2007-0004 to the Planning Commission for further review and with part of that review to include input from the Rural Economic Development Council (REDC) before returning the proposed zoning ordinance amendment to the Board of Supervisors.

Staff Recommendation: Staff recommends that the Planning Commission proceed with Option 2 to address the inconsistencies between the definition of Farm Market and the Additional Regulations for Farm Markets in Section 5-603(A) and to solicit comments from the REDC regarding those proposed amendments. Further the issue of changing the use category of Farm Market in the JLMA 2 district should be addressed.

SUGGESTED MOTIONS:

- 1.) I move that the Planning Commission take no action regarding ZOAM 2007-0004.
- 2.) I move that the Planning Commission proceed with ZOAM 2007-0004 to address the inconsistencies between the Definition of Farm Market and the Additional Regulations for Farm Markets in Section 5-603(A). Further the issue of changing the use category of Farm Market in the JLMA 2 district should be addressed. Input from the Rural Economic Development Council should be sought.
- 3.) I move an alternate motion.

I. DISCUSSION

The purpose of this agenda item is to discuss the scope, issues and schedule of this Zoning Ordinance Amendment.

II. BACKGROUND

During the Annual Review of the zoning ordinance [ZOAM 2006-0003], a proposal was brought forward to the Planning Commission to alleviate an inconsistency in the ordinance regarding the Farm Market use. This inconsistency was discovered when a Farm Market located outside of Hamilton, Lowry's, moved its operation from the eastern side of Hamilton (zoned RC Rural Commercial) to the western side of Hamilton (zoned JLMA-2 Joint Land Management Area 2). At the RC location, the use would be permitted as simply retail. However, a retail operation of the type conducted at the former location is not permitted in the JLMA 2 district; thus, the operation would have to change to conform to a use permitted in the district, such as a Farm Market.

The Annual Review of the Zoning Ordinance [ZOAM 2006-0003] addressed the definition of Farm Market and expanded it to only require a minimum of 25% of the agricultural products to be produced in Loudoun County. An inconsistency between the Farm Market definition and the Additional Regulations for Farm Markets remains in that Section 5-603 requires a minimum of 25% of the gross sales receipts be derived from agricultural products produced on-site or other property owned by the operator. ZOAM 2007-0004 addresses this inconsistency by proposing to change the 25% requirement from on-site or other property owned by the operator to products produced in the County.

The Lowry Dilemma. During the Annual Review process, an additional zoning barrier for the Lowry's to locate at the JLMA 2 property was identified. In the JLMA district the Farm Market use, although permitted by right, is included within the broad Use Category of "Agriculture Support and Services directly related to on-going agriculture, horticulture and animal husbandry activity, on-site". [emphasis added] Thus, because of the structure of the ordinance, the Farm Market use must be located on the site of on-going agriculture. As Lowry's does not produce the agricultural products on site, this requirement cannot be met.

The Planning Commission addressed this zoning construct problem with ZOAM 2007-0004 by proposing to move the Farm Market use from the Use Category of "Agriculture Support and Services Directly Related to on-going agriculture..." to the Use Category of "Retail Sales and Service." By moving the Farm Market "Use Type" to the Retail Sales and Service "Use Category," this zoning issue can be resolved for the Lowry's.

III. PROPOSED ZONING ORDINANCE AMENDMENTS

A. Section 5-603(A) [Additional Regulations for Farm Markets]

A minimum of 25% of the gross sales receipts must be derived directly from agricultural, horticultural or aqua cultural products produced on site in Loudoun County. An annual report verifying the portion of sales derived from products produced in the County shall be submitted on request to the Zoning Administrator.

B. Article 8 - Definitions

Farm Market: A principal use which includes the sale of agricultural, horticultural or aquacultural products including nursery stock, perennial, annuals, bulbs, mulch, compost, dried flowers, Christmas trees and greens, fresh produce, honey, cider and similar agriculture products. A minimum of 25% of the products must be agricultural horticultural or aquacultural products produced ~~on-site~~ in Loudoun County.

Please note that following the initiation of this amendment, the Board of Supervisors with the adoption of the Annual Review [ZOAM 2006-0003] on December 3, 2007 that addresses this recommendation as follows:

Farm Market: A principal use which includes the sale of aquacultural, horticultural or agricultural products, including nursery stock, perennial, annuals, bulbs, mulch, compost, dried flowers, Christmas trees and greens, fresh produce, honey, cider and similar agricultural products. A minimum of twenty-five percent (25%) of the products sold must be aquacultural, horticultural or agricultural products produced within the County on-site.

C. Farm Market is added or reclassified as a permitted use in the following zoning districts:

TABLE 2-1103 JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE			
P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	JLMA-2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
RESIDENTIAL USES			
Household Living	Accessory dwelling (accessory to single family detached dwelling)	P	Section 5-613
	Dwelling, single-family detached, including manufactured housing	P	Manufactured housing subject to Section 5-620
	Guest house (accessory to single family detached dwelling)	P	Section 5-612
	Home occupation (accessory to single family detached dwelling)	P	Section 5-400
	Model home	P	Section 5-500(A)
	Portable dwelling/trailer during construction of primary residence	P	Section 5-500
Group Living	Congregate housing facility	S	
	Continuing care facility	S	

TABLE 2-1103 JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGO RY	USE TYPE	JLMA- 2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Orphanage or similar institution	S	
	Tenant dwelling	S	Section 5-602
AGRICULTURAL USES			
Agricultur e	General Use Category	P	Section 5-626
Horticul ture	General Use Category	P	Section 5-626
Animal Husbandr y	General Use Category	P	Section 5-626
Agricultur e Support and Services directly related to on-going agriculture , horticultur e and animal husbandry activity, on-site	Agricultural processing	P	Section 5-627
	Animal care business	P	Section 5-627
	Custom operators	P	Section 5-627
	Direct market business for sale of products produced on-site-including but not limited to PYO (pick-your-own)	P	Section 5-627
	Equestrian facilities	P	Section 5-627
	Equestrian facility, on lots of less than fifty (50) acres, or without frontage on a state maintained road	S	Section 5-627
	Virginia farm winery	P	Section 5-627
	Farm based tourism events	P	Section 5-628
	Farm co-ops	P	Section 5-627
	Farm machinery sales, rental, and services	S	Section 5-627
	Farm machinery repair	P	Section 5-627
	Farm markets (moved to Retail Sales and Service)	P	Section 5-603

TABLE 2-1103 JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGO RY	USE TYPE	JLMA- 2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Mill feed and farm supply center	S	Section 5-627
	Nursery, commercial	S	Section 5-605
	Nursery, production	P	Section 5-605
	Nursery, production, without frontage on a state maintained road	S	Section 5-605
	Pet farms	P	Section 5-627
	Stable, private	P	Section 5-627
	Stable, neighborhood, on lots less than twenty-five (25) acres, or without frontage on a state maintained road	S	Section 5-627
	Wayside stand	P	Section 5-604
	Wetlands mitigation bank	P	Section 5-627
PUBLIC AND INSTITUTIONAL USES			
Day Care Facilities	Child care home	P	Section 5-609
	Child or adult day care center	S	Section 5-609
Cultural and Government Facilities	Bus shelter	P	
	Community center	S	
	Community center, HOA facilities only	P	
	Commuter parking lot, with greater than 50 spaces	S	
	Commuter parking lot, with 50 spaces or less	P	
	Library	S	

TABLE 2-1103 JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGO RY	USE TYPE	JLMA- 2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Structure or use for federal, state, County, or local governmental purposes, not otherwise listed	S	
Education	School (elementary or middle), for fifteen (15) pupils or less	S	Section 5-655
	School (elementary, middle, or high), for more than 15 pupils	S	
Park and Open Space	Cemetery	S	Section 5-637
	Mausoleum	S	Section 5-637
	Crematorium	S	Section 5-637
	Community, neighborhood or regional park, passive recreational uses	P	
	Community, neighborhood or regional park, active recreational uses	S	
Public Safety	Fire and/or rescue station	S	Section 5-638
	Police station or substation	S	Section 5-638
Religious Assembly	Church, synagogue or temple, with seating capacity of 300 or less in sanctuary or main area	P	Section 5-639
	Church, synagogue or temple, with seating capacity of more than 300 in sanctuary or main activity area, or with accessory schools, day care centers with more than 50 children, recreational facilities	S	Section 5-639
Utility	Public utility service center and storage yard	S	Section 5-621
	Recycling drop off collection center, public	P	Section 5-607
	Recycling drop off collection center, private	S	Section 5-607

TABLE 2-1103 JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	JLMA-2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
	Sewer and water treatment plant	S	Section 5-621
	Utility substation, distribution	S	Section 5-616
	Utility transmission line, overhead (excluding connections of lines from public utility transmission lines to individual development sites)	S	Unless excepted by Section 1-103 (D)
	Sewage and Water pumping station	P	Section 5-621
	Water storage tank	S	Section 5-621
COMMERCIAL USES			
Food and Beverage	Restaurant	S	Section 5-643
Office	Construction and/or sales trailer, during period of construction activity subject to establishment of date certain for removal	P	
Recreation and Entertainment	Camp, day and boarding	S	Section 5-645
	Golf course	S	Section 5-648
Retail Sales and Service	Artist studio	S	
	<u>Farm Markets</u>	<u>P</u>	<u>Section 5-603</u>
	Small business	P/S	Section 5-614
Visitor Accommodation	Bed and breakfast homestay	P/S	Section 5-601
	Bed and breakfast inn	S	Section 5-601
INDUSTRIAL USES			
Telecommunication Use and/or	Radio and/or television tower	S	Section 5-618
	Telecommunications antenna	P	Section 5-618(A)

TABLE 2-1103 JLMA-2 JOINT LAND MANAGEMENT AREA-2 DISTRICT USE TABLE			
P = PERMITTED S = SPECIAL EXCEPTION			
USE CATEGORY	USE TYPE	JLMA-2	ADDITIONAL REGULATIONS FOR SPECIFIC USES
Structure	Telecommunications monopole	P	Section 5-618(B)(1)
	Telecommunications monopole	S	Section 5-618(B)(2)
	Telecommunication tower	S	Section 5-618(C)(2)

Section 3-102 (R-1)

Add the following as a permitted use:

(X) Farm Market

Section 3-202 (R-2)

Add the following as a permitted use:

(V) Farm Market

Section 3-302 (R-3)

Add the following as a permitted use:

(U) Farm Market

Section 3-402 (R-4)

Add the following as a permitted use:

(T) Farm Market

Section 3-503 (R-8)

Add the following as a permitted use:

(R) Farm Market

Section 3-603 (R-16)

Add the following as a permitted use:

(O) Farm Market

Section 3-703 (R-24)

Add the following as a permitted use:

(O) Farm Market

Section 4-203 (PD-CC)

Add the following as a permitted use:

(A)(34) (32) Farm Market

Section 4-303 (PD-OP)

Add the following as a permitted use:

(H) (BB) Farm Market

Section 4-403 (PD-RDP)

Add the following as a permitted use:

(H) (HH) Farm Market

Section 4-503 (PD-IP)

Add the following as a permitted use:

~~(MM)~~ (II) Farm Market

Section 4-603 (PD-GI)

Add the following as a permitted use:

~~(OO)~~ (NN) Farm Market

IV. ISSUES:

1. Are the proposed amendments achieving what is wanted? One of the proposed zoning ordinance amendments proposes to make the standards of Section 5-603(A) consistent with the definition of Farm Market to require a minimum of 25% of the gross sales receipts from products produced in Loudoun County. This takes out the requirement to produce any items on site. The other amendments address where a Farm Market should be permitted. Input should be sought from the Rural Economic Development Council to determine the effects on the agricultural community and whether the districts proposed for the Farm Market use to locate are appropriate.
2. Should the character of a Farm Market in the JLMA 2 district be changed from one that is located on the site of on-going agriculture to one that is permitted on any parcel within that district? It is noted that the Farm Market use in the AR-1 and AR-2 zoning districts, as well as the JLMA 1, JLMA 3, JLMA 20, TR 10, TR 3, TR 2, and TR-1 districts are within the use category requiring the use to be located on the site of on-going agriculture.
3. Is the scope of the amendments too broad or not broad enough? Should the amendments only address the Lowry's zoning ordinance issues, or should the Farm Market use be introduced to the 13 zoning districts proposed? Are there other zoning districts that should be modified in a similar manner as the JLMA 2 district to allow the Farm Market use to be on parcels without on-going agriculture? Should additional zoning districts be considered for the Farm Market use or some deleted from the list?
4. What are the pros and cons of adding the Farm Market use to the residential, commercial, and industrial districts specified? Are the Additional Regulations for Farm Markets (Section 5-603) sufficient? For example, as written a Farm Market commercial use could establish on a single family parcel in a subdivision without many standards. Further, the Farm Market use only requires a Rural Sketch Plan to establish the use and not a site plan.
5. Farm Market versus Farmer's Market. Does a distinction need to be made between a Farm Market (historically a principal use where a portion of the products are produced on-site) and a community Farmer's Market (where farmers bring their products to sell to the public).

V. OPTIONS:

The Planning Commission could decide to proceed in the following ways:

Option 1: Leave the ordinance as it is and not proceed further.

Option 2: Tailor the changes to the Zoning Ordinance to address the Lowry situation only and not extend the Farm Market use to the various zoning districts

identified. This would address proposed amendments to Section 5-603(A) and the JLMA 2 use list.

Option 3: Modify or expand the zoning districts to which the Farm Market use is added as a permitted use.

VI. SCOPE OF WORK AND SCHEDULE

Option 2: If the Planning Commission decides to proceed with Option 2, the ZOAM can proceed in a relatively short time frame of approximately 60 days with relatively minor staff effort.

Option 3: If the Planning Commission proceeds with Option 3, the evaluation of a comprehensive ordinance amendment involving a number of zoning districts would involve a major staff effort. The Planning Commission could review the proposed amendments in a subcommittee with input from the Rural Economic Development Council. It is possible that a new public hearing would be necessary.

VII. ATTACHMENT

1. January 8, 2008 Board of Supervisors Action Summary forwarding ZOAM 2007-0004 to the Planning Commission.